

## R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

### SUPPORT FOR CLAIM AMENDMENTS

Support for the claim amendments may be found in the specification, for example, in paragraphs 0039, 0040, 0042 and FIGS. 1 and 2, as originally filed. Thus, no new matter has been added.

### CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1-12, 17-20, 22-43, 45-55, 61-64, 66-87 and 89-93 under 35 U.S.C. §103(a) as being unpatentable over Allen III '726 (hereafter Allen) in view of Beckers '974 and Fu et al. '625 (hereafter Fu) has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 13-16, 21, 44, 57-60, 65 and 88 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Beckers, Fu and Yamamoto '059 has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

Allen concerns a patient-operated glucose monitor and diabetes management system (title). Beckers concerns a diabetes management system and apparatus (title). Fu concerns a personal

health monitor (title). Yamamoto concerns a method and apparatus for measuring body fluid constituents and storing and managing the test data and method of controlling and processing the test data (title). In contrast, the present invention provides a networked health-monitoring system configured to collect and process patient health-related data. The system generally comprises at least one microprocessor device, at least one central server and at least one health care professional computer. The microprocessor device (i) may include a display and a memory and (ii) may be configured to collect the health-related data based on at least one health condition of the patient. The central server is generally (i) remotely located from and in signal communication with the microprocessor device to receive the health-related data from the microprocessor device and (ii) configured to generate health-related information from the health-related data. The health care professional computer may be remotely located from and in signal communication with the central server to receive the health-related information from the central server. The system is generally configured to transfer one or more computer programs from the central server to the microprocessor device. The computer programs may be executed by the microprocessor device for collecting the health-related data. However, the proposed combination does not include all of the claimed limitations for the reasons given below.

Claims 1, 45 and 89 are independently patentable over the cited references. Claim 1 provides (i) at least one microprocessor device, (ii) at least one central server and (iii) at least one health care professional computer, remotely located from and in signal communication with the central server. Claims 45 and 89 provide similar language. The Office Action asserts that (i) a monitor unit 10 of Allen is similar to the claimed microprocessor device, (ii) a central unit 20 of Fu is similar to the claimed central server and (iii) a computer 102 of Allen is similar to the claimed health care professional computer. However, the references appear to be silent that the computer 102 of Allen is remotely located from and in signal communication with the central unit 20 of Fu. Therefore, the proposed combination does not include all of the claimed limitations.

In particular, the Office Action asserts that Allen teaches that the computer 102 is "remotely located", but does not state what the computer 102 is remotely located from. In contrast, FIG. 4 of Allen appears to indicate that the computer 102 is separate from the monitor 10 and in communication with the monitor 10 through modems 104 and 106. Allen is silent regarding the computer 102 being remotely located from and in signal communication with any other computer other than those used by the patients. The Office Action also asserts that Fu teaches that the central unit 20 is "in signal communication with the central

server". In contrast, FIG. 1 of Fu appears to indicate that the central unit 20 is separate from and communicate with the home units 60. The home units 60 of Fu appear to relate to the monitor 10 of Allen. Fu is silent regarding the central unit 20 being remotely located from and in signal communication with any other computer other than those used by the patients. Therefore, the proposed combination appears to be silent that the computer 102 of Allen could be remotely located from and in signal communication with the central unit 20 of Fu. The other reference does not cure these deficiencies. Furthermore, it is improper to dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered per MPEP §2106. As such, the proposed combination does not include all of the claimed limitations.

Claim 1 further provides that (A) the central server receives the health-related data from the microprocessor device, (B) the central server generates health-related information from the health-related data and (C) the health care professional computer receives the health-related information from the central server. The Office Action asserts that claim 1(a) of Beckers teaches that the computer 102 of Allen receives the health-related data from the central unit 20 of Fu based on data provided by the monitor 10 of Allen. In contrast, claim 1(a) of Beckers appears to teach that a master computer is programmed to develop an optimum

program of treatment based on patient data. Nothing in claim 1(a) of Beckers appears to indicate that the master computer receives the patient data from a sever which in turn generated the patient data from information received from a microprocessor device. The other references do not appear to cure this deficiency. Therefore, the proposed combination does not include all of the claimed limitations.

Claim 1 further provides that (A) the system is configured to transfer one or more computer programs from the central server to the microprocessor device and (B) the computer programs being executed by the microprocessor device for collecting the health-related data. Claims 45 and 89 provide similar language. The Office Action asserts that claim 5 and the elements 100-106 in FIG. 4 of Allen teach the central unit 20 of Fu transferring computer programs to the monitor 10 of Allen. In contrast, the cited portions of Allen appear to be silent regarding the monitor 10 executing computer programs received through the modem 106. Therefore, the proposed combination does not include all of the claimed limitations.

In particular, claim 5 of Allen teaches a means for measuring blood glucose and a monitor means capable of receiving, storing and evaluating data. Nothing in claim 5 of Allen appear to teach a computer program being transferred to the monitor 10 and the monitor 10 executing such computer program. Nothing in FIG. 4

of Allen appears to teach the monitor 10 receiving a computer program through the modem 106 and the monitor 10 executing such computer program. The other references do not appear to cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Claims 8 and 52 are independently patentable over the cited references. Claim 8 provides a data management unit configured to (i) facilitate collection of the health-related data from the health monitoring device and (ii) transfer the computer programs from the central server to the microprocessor device. Claim 52 provides similar language. The Office Action asserts that the text in column 1 lines 50-68 of Allen mentions a device similar to the claimed data management unit. In contrast, the cited text, and the rest of Allen appears to be silent regarding any such device. Therefore, the proposed combination does not include all of the claimed limitations.

In particular, Allen appears to be silent regarding any device between the monitor 10 and the communications channel 105 that both (i) facilitates collection of health-related data and (ii) transfers computer programs to the monitor 10. The other references do not appear to cure this deficiency. Therefore, the proposed combination does not include all of the claimed

limitations. As such, claims 8 and 52 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 11 and 54 are independently patentable over the cited references. Claim 11 further provides at least one personal computer connected to the data management unit. Claim 54 provides similar language. The Office Action asserts that the items 10, 100-106 and 114 in FIG. 4 of Allen allegedly mentions a personal computer connected to a data management unit. In contrast, the rejection of claims 8 and 52 fail to establish any device similar to the claimed data management unit. The monitor 10 of Allen is already allegedly similar to the claimed microprocessor device. The computer 102 of Allen is already similar to the claimed healthcare professional computer. One of ordinary skill in the art has no reason to consider any of the remaining devices 100 (a human), 104 and 106 (modems), 105 (communications channel) and 114 (another human) to be similar to a personal computer. The other references do not cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations. As such, claims 11 and 54 are fully patentable over the cited references and the rejections

Claims 39 and 83 are independently patentable over the cited references. Claim 39 further provides that the transferring of the computer programs from the central server to the microprocessor device is in response to an input received at the

microprocessor device. Claim 83 provides similar language. The Office Action asserts that items 10 and 100-114 in FIG. 4 and associated text of Allen teach transferring computer programs to the monitor 10 in response to an input received at the monitor 10. In contrast, Allen appears to be silent regarding (i) the monitor 10 receiving computer programs through the modem 106 and (ii) the missing transfer occurring in response to an input received at the monitor 10. The other references do not appear to cure these deficiencies. Therefore, the Office is respectfully requested to either (i) clearly identify (a) the "related text" being relied upon to reach the conclusion that the monitor 10 of Allen receives computer programs through the modem 106 and (b) the input that allegedly triggers the transfer of the alleged computer programs or (ii) withdrawn the rejections.

Claims 90 and 92 are independently patentable over the cited references. Claim 90 provides that the transferring of the computer programs from the central server to the microprocessor device is done automatically on a repeated basis. Claim 92 provides similar language. In contrast, none of the references appear to teach transferring computer programs to the monitor 10 of Allen. Therefore, the references do not include all of the claimed limitations. Furthermore, the Office Action does not provide any arguments in support of the rejections of claims 90 and 92. Therefore, *prima facie* obviousness has not been established. As



such, claims 90 and 92 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 91 and 93 are independently patentable over the cited references. Claim 91 provides that the transferring of the computer programs from the central server to the microprocessor device is in response to an input received at the health care professional computer. Claim 93 provides similar language. In contrast, none of the references appear to teach transferring computer programs to the monitor 10 of Allen. Therefore, the references do not include all of the claimed limitations. Furthermore, the Office Action does not provide any arguments in support of the rejections of claims 91 and 93. Therefore, *prima facie* obviousness has not been established. As such, claims 91 and 93 are fully patentable over the cited references and the rejections should be withdrawn.

Claim 2-44, 46-88 and 90-93 depend, either directly or indirectly, from the independent claims, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

#### **COMPLETENESS OF THE OFFICE ACTION**

Aside from a notice of allowance, Applicant's representative respectfully requests any further action on the merits be presented as a non-final action. The rejections of

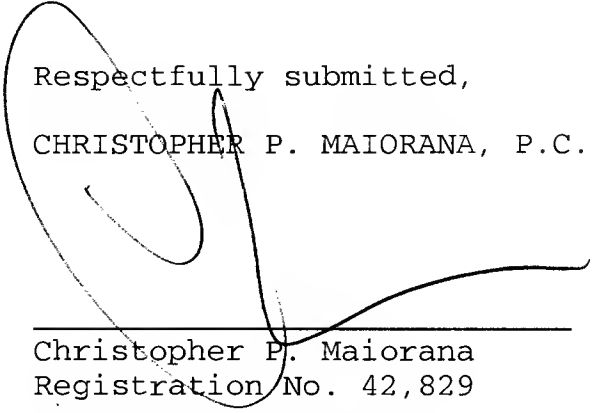
claims (i) 8 and 52, (ii) 11 and 54 and (iii) 39 and 83 were traversed in the prior amendment. The current Office Action repeats these rejections but does not address the substance of the traversals as required by MPEP §707.07(f). Furthermore, the Office Action does not provide any arguments to support the rejections of claims 90-93. Therefore, the current Office Action is incomplete. Prosecution cannot be closed without being complete as to all matters, as required by 37 CFR §1.104(b). As such, either (i) a notice of allowance or (ii) a new non-final Office Action should be issued.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit  
Account No. 50-0541.

Respectfully submitted,  
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Dated: July 28, 2009

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Docket No.: 03-0930 / 7553.00098